

1 AN ACT relating to the appointment of counsel.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 620.100 is amended to read as follows:

4 (1) If the court determines, as a result of a temporary removal hearing, that further
5 proceedings are required, the court shall advise the child and his parent or other
6 person exercising custodial control or supervision of their right to appointment of
7 separate counsel:

8 (a) The court shall appoint counsel for the child to be paid for by the Finance and
9 Administration Cabinet. Counsel shall document participation in training on
10 the role of counsel that includes training in early childhood, child, and
11 adolescent development. The clerk of the court shall arrange for service on all
12 parties, including the local representative of the Cabinet for Health and Family
13 Services, of the order appointing counsel. The fee to be fixed by the court
14 shall not exceed five hundred dollars (\$500); ~~however, if the action has final~~
15 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~
16 ~~dollars (\$250)];~~

17 (b) The court shall appoint separate counsel for the parent who exercises custodial
18 control or supervision if the parent is unable to afford counsel pursuant to
19 KRS Chapter 31. The clerk of the court shall arrange for service on all parties,
20 including the local representative of the Cabinet for Health and Family
21 Services, of the order appointing counsel. The parent's counsel shall be
22 provided or paid for by the Finance and Administration Cabinet. The fee to be
23 fixed by the court shall not exceed five hundred dollars (\$500); ~~however, if~~
24 ~~the action has final disposition in the District Court, the fee shall not exceed~~
25 ~~two hundred fifty dollars (\$250)];~~

26 (c) The court may, in the interest of justice, appoint separate counsel for a
27 nonparent who exercises custodial control or supervision of the child, if the

1 person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of
2 the court shall arrange for service on all parties, including the local
3 representative of the Cabinet for Health and Family Services, of the order
4 appointing counsel. Counsel for the person shall be provided or paid for by the
5 Finance and Administration Cabinet. The fee to be fixed by the court shall not
6 exceed five hundred dollars (\$500)~~]; however, if the action has final~~
7 ~~disposition in the District Court, the fee shall not exceed two hundred fifty~~
8 ~~dollars (\$250)]~~; and

9 (d) The court may, in the interest of justice, appoint a court-appointed special
10 advocate volunteer to represent the best interests of the child pursuant to KRS
11 620.500 to 620.550. The clerk of the court shall arrange for service on all
12 parties, including the local representative of the cabinet, of the order
13 appointing the court-appointed special advocate volunteer.

14 (2) If the court determines that further proceedings are required, the court also shall
15 advise the child and his parent or other person exercising custodial control or
16 supervision that they have a right to not incriminate themselves, and a right to a full
17 adjudicatory hearing at which they may confront and cross-examine all adverse
18 witnesses, present evidence on their own behalf and to an appeal.

19 (3) The adjudication shall determine the truth or falsity of the allegations in the
20 complaint. The burden of proof shall be upon the complainant, and a determination
21 of dependency, neglect, and abuse shall be made by a preponderance of the
22 evidence. The Kentucky Rules of Civil Procedure shall apply.

23 (4) The disposition shall determine the action to be taken by the court on behalf of the
24 child and his parent or other person exercising custodial control or supervision.

25 (5) Foster parents, preadoptive parents, or relatives providing care for the child shall
26 receive notice of, and shall have a right to be heard in, any proceeding held with
27 respect to the child. This subsection shall not be construed to require that a foster

- 1 parent, preadoptive parent, or relative caring for the child be made a party to a
- 2 proceeding solely on the basis of the notice and right to be heard.